

GARY S. JOHNSON	§	
v.	§	CIVIL ACTION NO. 5:09cv96
DR. STANDLY	§	

The Plaintiff Gary S. Johnson, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

After review of the pleadings, the Magistrate Judge issued a Report on July 15, 2009, recommending that the lawsuit be dismissed. The Magistrate Judge noted that Johnson had an extensive history of filing frivolous lawsuits and was consequently subject to the “three-strikes” bar of 28 U.S.C. §1915(g). In this case, Johnson did not pay the full filing fee or show that he was in imminent danger of serious physical injury, and so the Magistrate Judge recommended that the lawsuit be dismissed.

Johnson received a copy of the Report on July 17, 2009, and filed what appears to be a response thereto on July 27, 2009. This response reads, in its entirety, as follows:

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To the extent that Johnson's response can be construed as objections to the Magistrate Judge's Report, these objections are without merit.

The Court has conducted a careful *de novo* review of the pleadings in this cause, along with the Report of the Magistrate Judge and the Plaintiff's response thereto. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff's response is without merit. It is accordingly

ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but without prejudice as to the refiling of this lawsuit without seeking *in forma pauperis* status and upon payment of the full \$350.00 filing fee. Should the Plaintiff pay the full filing fee within 15 days after the date of entry of final judgment, he shall be allowed to proceed in this lawsuit as though the full fee had been paid from the outset. It is further

ORDERED that any and all motions which may be pending in this action, including but not limited to the Plaintiff's motion for leave to proceed *in forma pauperis*, are hereby DENIED.

SIGNED this 13th day of August, 2009.

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM

UNITED STATES DISTRICT JUDGE